

HOUSE BILL No. 1271

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-11; IC 31-16-6.

Synopsis: Child support. Provides that the duty to pay child support ceases when a child becomes 18 years of age. Provides that a court cannot order educational support for a child after a child becomes 18 years of age or for higher education unless both parents agree to the conditions of the educational support order. Provides that a court may order parents to deposit money for a child's higher education in a savings or an investment account.

Effective: July 1, 2005.

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January 11, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1271

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-14-11-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Where
3 appropriate, the support order may include:

4 (1) money for the child's education **after the child becomes**
5 **eighteen (18) years of age or beyond grade 12 that is to be**
6 **saved in a savings account or an investment account**, after the
7 court has considered:

8 (A) the child's aptitude and ability;

9 (B) the child's reasonable ability to contribute to educational
10 expenses through:

11 (i) work;

12 (ii) obtaining loans; and

13 (iii) obtaining other sources of financial aid reasonably
14 available to the child and the parent or parents; and

15 (C) the ability of the parents to meet these expenses;

16 **if both parents have signed a voluntary agreement stipulating**
17 **that both parents have agreed to the conditions of the order**

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concerning educational support;

(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child;

(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); and

(4) basic health and hospitalization insurance coverage for the child.

(b) If, however, the Title IV-D agency initiates action to establish or modify a support obligation and petitions the court to include basic health and hospitalization insurance coverage in the support order, the court shall include a provision addressing insurance coverage for the child.

(c) In an action initiated by the Title IV-D agency or other parties, the court may order the parent who is ordered to pay child support to provide the insurance coverage for the child if the insurance coverage is available to the parent at reasonable cost.

(d) A court may order money deposited in an account described in subsection (a)(1) returned to the parents or given to the child regardless of whether the child is obtaining an education, if:

(1) money has been deposited in a savings or investment account as described in subsection (a)(1);

(2) the child is not in school:

(A) after the child becomes eighteen (18) years of age; or

(B) beyond grade 12; and

(3) both parents petition the court to order the money contributed to a savings or investment account to be:

(A) returned to the parents in the proportion that each parent contributed money to the account; or

(B) given to the child.

SECTION 2. IC 31-14-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The duty to support a child under this article (or IC 31-6-6.1 before its repeal) ceases when the child becomes ~~twenty-one (21)~~ **eighteen (18)** years of age unless either of the following conditions occurs:

(1) The child is emancipated before the child becomes ~~twenty-one (21)~~ **eighteen (18)** years of age. If this occurs, the child support, except for educational needs, terminates at the time of emancipation. However, an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. If this occurs, the child support continues during the incapacity or until further order of the court.

SECTION 3. IC 31-16-6-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Except as provided in subsection (c)**, the child support order or an educational support order may also include, where appropriate:

(1) amounts for the child's education in elementary and secondary schools and at institutions of higher learning, taking into account:

(A) the child's aptitude and ability;

(B) the child's reasonable ability to contribute to educational expenses through:

(i) work;

(ii) obtaining loans; and

(iii) obtaining other sources of financial aid reasonably available to the child and each parent; and

(C) the ability of each parent to meet these expenses;

(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child; and

(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(b) If the court orders support for a child's educational expenses at an institution of higher learning under subsection (a), the court shall reduce other child support for that child that:

(1) is duplicated by the educational support order; and

(2) would otherwise be paid to the custodial parent.

(c) A child support order or an educational support order may include amounts for the child's education beyond grade 12 only if both parents have signed a voluntary agreement stipulating that both parents have agreed to the conditions of the order concerning educational support.

(d) A court may order that money for education:

(1) after the child becomes eighteen (18) years of age; or

(2) beyond grade 12;

as described in subsection (a)(1), be deposited by either or both parents in a savings account or an investment account.

(e) A court may order money deposited in an account described in subsection (d) be returned to the parents or given to the child regardless of whether the child is obtaining an education, if:

(1) money has been deposited in a savings or investment account as described in subsection (d);

(2) the child is not in school:

(A) after the child becomes eighteen (18) years of age; or

(B) beyond grade 12; and

(3) both parents petition the court to order the money contributed to a savings or investment account to be:

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- 1 **(A) returned to the parents in the proportion that each**
 2 **parent contributed money to the account; or**
 3 **(B) given to the child.**

4 SECTION 4. IC 31-16-6-6 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The duty to
 6 support a child under this chapter ceases when the child becomes
 7 ~~twenty-one (21)~~ **eighteen (18)** years of age unless any of the following
 8 conditions occurs:

9 (1) The child is emancipated before becoming ~~twenty-one (21)~~
 10 **eighteen (18)** years of age. In this case the child support, except
 11 for the educational needs outlined in section 2(a)(1) **of this**
 12 **chapter and except as provided in section 2(a)(3)** of this
 13 chapter, terminates at the time of emancipation, although an order
 14 for educational needs may continue in effect until further order of
 15 the court.

16 (2) The child is incapacitated. In this case the child support
 17 continues during the incapacity or until further order of the court.
 18 ~~(3) The child:~~

19 ~~(A) is at least eighteen (18) years of age;~~

20 ~~(B) has not attended a secondary or postsecondary school for~~
 21 ~~the prior four (4) months and is not enrolled in a secondary or~~
 22 ~~postsecondary school; and~~

23 ~~(C) is or is capable of supporting himself or herself through~~
 24 ~~employment.~~

25 In this case the child support terminates upon the court's finding
 26 that the conditions prescribed in this subdivision exist. However,
 27 if the court finds that the conditions set forth in clauses (A)
 28 through (C) are met but that the child is only partially supporting
 29 or is capable of only partially supporting himself or herself, the
 30 court may order that support be modified instead of terminated.

31 (b) For purposes of determining if a child is emancipated under
 32 subsection (a)(1), if the court finds that the child:

33 (1) has joined the United States armed services;

34 (2) has married; or

35 (3) is not under the care or control of:

36 (A) either parent; or

37 (B) an individual or agency approved by the court;

38 the court shall find the child emancipated and terminate the child
 39 support.

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